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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,106	06/20/2003	Guido Wiertz	0315-000547	7792
27572	7590	03/13/2006	EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C.			FREAY, CHARLES GRANT	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3746	
DATE MAILED: 03/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,106

Applicant(s)

WIERTZ ET AL.

Examiner

Charles G. Freay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 7-10,21-23,31-34,44-47 and 54 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,11-20,24,49-53 and 58 is/are allowed.
- 6) ☒ Claim(s) 25-30,35-37,39-43 and 48 is/are rejected.
- 7) ☒ Claim(s) 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of species 1 in the reply filed on December 22, 2005 is acknowledged. The traversal is on the ground(s) that searching the non-elected species does not pose an undue burden. This is not found persuasive because the proper traversal of an election of species requirement is a showing or admission that the different species are obvious variants of one another. Additionally the examiner notes that the various disclosed species actually require additional and separate fields of search in addition to the consideration of the differing structural arrangements.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

Claims 25-30, 35 and 36 are objected to because of the following informalities:

Claims 25-30 and 35 are objected to because in claim 25 the first and second scrolls are set forth as being within the central shell. The scrolls are disclosed as being within the intermediate shell however (see paragraph 0026). The examiner suggest setting forth that the scrolls are within the outer shell in a manner similar to claim 12, and;

In claim 36 line 7 "driving" should be "driven".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25-30, 36, 37 and 39-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Rajendran (USPN 6,672,846).

Rajendran et al disclose a scroll machine with first and second scroll compressors (Fig. 1) at opposite ends of a drive shaft (30) which extends between the scroll compressors and is coupled thereto. There is an outer shell (12, 14, and 24) which defines a central shell (unnumbered) to which a stator (50) is attached. The drive shaft has a rotor of the motor attached to it. There is a suction duct (18) which is spaced from the central shell. There are first and second oil pumps (36) which have housings that also form main bearing housings that are attached to the outer shell. The outer shell defines a suction pressure chamber (90) which is extended and includes the outer areas of the scroll members (see col. 4 lines 12-16 as this relates to claim 30).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 35 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rajendran et al.

As set forth above Rajendran et al disclose the invention substantially as claimed but do not disclose that the motor is a variable speed motor. The examiner gives official notice that driving a compressor with a variable speed motor is well known in the art and that it would have been obvious to one of ordinary skill in the art at the time of the invention to make the motor of Rajendran et al be a variable speed motor in order to allow for the user to produce differing flow rates depending upon the conditions and use.

***Allowable Subject Matter***

Claims 1-6, 11, 12-20, 24, 49-53 and 58 are allowed.

Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: With regards to claim 1 the prior art neither discloses nor makes obvious a scroll compressor with first and second scroll compressors on opposite ends of a drive shaft that has first and second drive flats being out of phase with one another by 180 degrees; with regards to claim 12 and 49 the prior art neither discloses nor makes obvious a scroll machine having an outer shell defining a central shell, a suction chamber and a discharge duct where the discharge duct is spaced from the central shell.

***Conclusion***

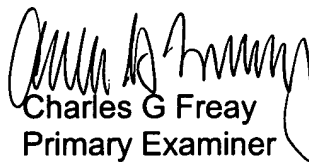
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ke et al, Murayama et al, Morishita and Gormley et al disclose dual scroll machines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G. Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Charles G Freay  
Primary Examiner  
Art Unit 3746

CGF  
March 2, 2006